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**Personnel**

**MARRIAGE IN OVERSEAS COMMANDS**

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This instruction implements Air Force Policy Directive 36-26, *Military Force Management*, and provides basic guidance to Commanders and personnel on the procedures to follow when planning a marriage in an overseas command. Major Command and Wing level units may supplement this instruction. HQ AFPC/DPSFC must coordinate on all supplements.

**1. Purpose.** This instruction provides information and policy guidance to commanders on marriage of personnel stationed in or visiting overseas commands, and on applications for the immigration of alien spouses, fianc  or fiancée, children, stepchildren, and adopted children.

1.1. The restrictions imposed by this instruction are not intended to prevent marriage. These restrictions are for the protection of both aliens and United States (U.S.) citizens from the possible disastrous effects of an impetuous marriage entered into without appreciation of its implications and obligations.

1.2. This instruction is intended to make both aliens and U.S. citizens aware of the rights and restrictions imposed by the immigration laws of the United States and to assist in identifying and precluding the creation of U.S. military dependents not eligible for immigration to the United States.

**2. Statutory Authority.** The admission to the U.S. of the above aliens is governed by the Immigration and Nationality Act (Title 8, United States Code, Sections 1101, et seq.).

2.1. Titles 8 and 22 of the Code of Federal Regulations (CFR) contain the immigration and nationality regulations. Since 24 December 1952, the effective date of the Immigration and Nationality Act, certain policies and procedures have been changed. In general, the exacting standards heretofore determining admissibility are continued, but additional categories of potential immigrants have been granted consideration.

2.2. Public Law 91-225 (8 U.S.C. 1184(d)), signed by the President on 7 April 1970, amended the Immigration and Nationality Act to provide non-immigrant status for the alien fianc  or fiancée of a

U.S. citizen who seeks to enter the U.S. to conclude a valid marriage in the U.S. within the 90 days after entry.

**3. Policy .** It is the policy of the Department of the Air Force that all active duty personnel have basically the same right to enter into marriage as any other citizens of the U.S. in the same locality. Air Force personnel stationed in or visiting foreign countries are required to obtain written authorization from the senior overseas area commander prior to marrying. This authority may be delegated as deemed necessary. The policy of the Air Force is that approval will be given in all instances where military personnel have complied with local instructions implementing this policy.

3.1. Due examination and consideration do not indicate that the intended alien spouse would certainly or probably be barred from entry to the U.S. through inability to meet statutory physical, mental, or character standards and the provisions in paragraph 3.2.

3.2. The applicant has demonstrated financial ability, not limited to any particular form of financial security, to prevent the alien spouse from becoming a public charge.

3.3. Civilian personnel serving with, employed by or accompanying the Air Force outside the United States under Department of Defense (DoD) sponsorship are not required to submit applications for authorization to marry. They are encouraged to avail themselves of the consultative services provided by military commanders concerning the legal, moral, and procedural problems involved in overseas marriages, and the U.S. laws on immigration and nationality.

3.4. Applications for authorization to marry will be forwarded by endorsement to the commander having authority to approve the application. These applications must be accompanied by written and notarized consent of the parents or legal guardian of the applicant and of the intended spouse if he or she is under the legal age for marriage without consent as prescribed by the laws of the state, territory or country of his or her respective domicile. If the laws of the country in which the marriage is to take place do not recognize the legal age of domicile as stated above, then the laws of that country shall apply.

3.4.1. The notarized permission should include:

3.4.2. The full name and place of residence of the person being granted permission to marry.

3.4.3. The full name and place of residence of the intended spouse.

3.4.4. The date permission is granted.

3.4.5. The full name, place of residence, and relationship of the person or persons granting permission.

3.5. Where obstacles to a lasting marriage appear to be present through the anticipated inadmissibility to the U.S. of the intended spouse, the application for authorization to marry will be returned by the commander for consideration by the service member of the problems that would result if the intended spouse were not admitted to the U.S. after marrying (see paragraph 4.1).

3.6. Each application returned disapproved will indicate the specific reasons for lack of approval and will suggest any additional action that may be taken to secure permission (for example, medical attention for either party or further savings by the service member).

3.7. Marriage applications disapproved for security reasons and returned to the applicant will state briefly the reason for disapproval, but will not divulge the source of information or other data which

would involve violation of security or jeopardize sources of information available in the conduct of these investigations.

3.8. Prior to granting authorization to marry, a medical examination will be required of each alien fiancée or fiancé and all dependents who will actually be residing with the prospective spouse, and that intend to seek admission to the U.S. The examination may be administered at either a U.S. Public Health Service office or a U.S. Forces medical facility and will be of sufficient scope and thoroughness to detect mental or physical illness or conditions as described in paragraph 4.1.. Although the premarital medical examination performed at a U.S. Forces medical facility is given to determine suitability for later entry into the U.S., qualification as a result of this examination is tentative and does not ensure final medical acceptance of the prospective spouse or dependents for entry into the U.S. The alien spouse and dependents must later undergo and satisfactorily meet the requirements of a medical examination administered by a U.S. military or civilian doctor, in accordance with requirements established by the U.S. Public Health Service, before a visa is granted.

3.9. Premarital investigations: Members will refer to their Unit Security Managers for determination of a premarital investigation in accordance with AFI 31-501, *Personnel Security Management Program Management*.

3.10. Applicants whose requests have been favorably considered will be given all assistance possible in arranging their marriages and securing visa and other entrance documentation, including forwarding **Form I-130 (Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa)** under cover letter of the command.

3.10.1. The financial status of the individual has been considered;

3.10.2. The alien spouse has undergone medical examination;

3.10.3. No defects barring admission under pertinent immigration laws have been discovered.

3.11. Air Force members will be encouraged to seek premarital advice and counsel of a military chaplain before making final plans for marriage. If an applicant desires a wedding to be performed by a military chaplain, a civil ceremony may be required by the country and should be performed prior to the chaplain's ceremony. This may sometimes involve two ceremonies. A civil ceremony is required by the laws of some countries. In this connection, the laws of the U.S. recognize only those marriages which are legally entered into under the laws of the country in which the ceremony is performed. All personnel concerned will be advised that the Immigration and Naturalization Service does not hold proxy, telephone, or similar marriages to be valid for immigration purpose unless the marriage shall have been consummated through cohabitation. A suitable marriage certificate will be presented by the command to supplement any document which may be provided under local laws.

3.12. Once a marriage has been entered into and the dependents are deemed eligible for benefits normally associated with command sponsorship, no distinction will be made between alien and citizen spouses in the access to, and use of available support facilities (**EXAMPLE:** Base or Post Exchange, Commissary, and Class VI stores). Any other benefit to which the dependents of military members are entitled by virtue of the member's rank, tenure, or status will be conferred irrespective of the dependents' nationality or command sponsorship. In the case of a marriage within the overseas command, the member will not be authorized to occupy dependent-type quarters on a date earlier than he or she would be entitled to do so had he or she entered the overseas command on the date of marriage.

3.13. The service member will ensure that an official record of his or her marriage (whether to an alien or a U.S. citizen) is made with the proper local civil authority immediately after marriage has been accomplished.

**4. Problems to be considered.** The admissibility of alien spouses and children merits serious consideration by the parties to the marriage and the Air Force, because such marriages are normally planned in anticipation of eventual residence in the United States. Thorough study of all aspects of the problem by the individual prior to marriage, together with guidance from the appropriate military commanders, can minimize, if not eliminate, the prospect of broken homes by divorce, abandonment, or desertion. This could result if alien spouses failed to qualify for admission to the United States because the individuals concerned were not aware of the requirements for entry prior to marriage.

4.1. Mental and physical health of the alien spouse, as well as character, morals, and political beliefs and affiliations, are matters of primary importance since individuals in certain categories may be inadmissible to the United States for permanent residence. These categories include, but are not limited to, aliens who:

4.1.1. Have a physical or mental disorder and behavior associated with the disorder which may pose or which has posed a threat to the property, safety, or welfare of the alien or others.

4.1.2. Are afflicted with any dangerous contagious disease, including infection with etiologic agent for acquired immune deficiency syndrome (AIDS).

4.1.3. Are drug addicts.

4.1.4. Are prostitutes or have engaged in or profited from prostitution or are coming to the U.S. to engage in any other unlawful commercialized vice, whether or not related to prostitution.

4.1.5. Are engaged in terrorist activity or are reasonably likely to engage in terrorist activity upon entry into the U.S. or is a member of a foreign terrorist organization.

4.1.6. Are members of or affiliated with the communist or any other totalitarian party or association.

4.1.7. Seek entry to engage in any activity to violate U.S. laws relating to espionage or sabotage or to violate U.S. laws prohibiting export from the U.S. of goods, technology, or sensitive information; any other unlawful activity; or any activity to oppose, control, or overthrow the Government of the U.S. by force, violence, or unlawful means.

4.1.8. Have been convicted of a crime involving moral turpitude or admits to having committed such a crime.

4.1.9. Have been convicted of two or more offenses (other than purely political offenses) for which the aggregate sentence to confinement actually imposed was 5 years or more.

4.1.10. Have been convicted of (or admit violating) any law or regulation relating to controlled substance.

4.1.11. Have been convicted of certain other offenses specified in Title 8, United States Code, Section 1182, regarding the general classes of excludable aliens.

4.1.12. Have been arrested and deported, have fallen into distress and have been removed from the U. S., or have been excluded from admission and deported -- unless the U.S. Attorney General has consented to their applying or reapplying for admission.

4.2. In addition to the high standards required of the alien, the U.S. citizen also must present satisfactory evidence of ability to prevent the spouse from becoming a public charge. Another important subject for consideration is the large number of enlisted personnel of pay grade E-1 to the grade of E-4 with less than 2 years of service who have no occupational backgrounds or histories of past earnings to establish their ability to support a family. Consideration must be given also to the health of the U.S. citizen. (The presence of active tuberculosis, for example, would not only impair his or her ability to support the family, but would endanger the health of the alien spouse, thus jeopardizing admissibility.)

4.3. An adverse effect on military sponsor's career can often result from marriage to an alien when the sponsor occupies a sensitive position requiring access to classified defense information or cryptographic matter. This aspect should be closely examined through consultation with the Unit Commander or Security Manager. The military member should also consider possible reclassification action that could occur and its resultant impact on his or her career aspirations.

**5. Exception to Policy .** The Air Force recognizes the human aspects of situations leading to application for authorization to marry an alien. It is the intent of this instruction that the procedures followed in overseas commands will be in accordance with normal legal rights and privileges of U.S. citizens to the fullest extent practical. Existing local conditions may affect individual actions and procedures of commanders.

5.1. A determination that the prospective alien spouse may be ineligible for admission into the United States does not require disapproval of the application for authorization to marry. The U.S. citizen desiring to marry and the alien fiancé or fiancée will be thoroughly counseled and advised that in the opinion of the commander the intended alien spouse may be ineligible for admission to the United States. If the citizen, the intended spouse (and the parents of either, if appropriate, because of the partner's age) indicate in writing that such advice has been received and they nevertheless desire that the marriage take place, the commander may approve the application for authorization to marry.

**6. Command Publications .** Directives will be reasonable and will stress the fact that the screening of applicants for authorization to marry by the commander is substantially similar to the processing of requests for entry of alien spouses into the United States, and that the lack of command approval is indicative of probable unfavorable action of the United States Consul and the Commissioner of Immigration and Naturalization on a visa request.

6.1. Adoption or modification of the procedures recommended is at the discretion of the appropriate overseas service commander.

6.2. Local information media will be used from time to time to promote an understanding of marriage instructions and their intent. Orientation of replacements will include this subject. Questions and discussion will be encouraged.

**7. Admission of Alien Spouses and Children.** Subject to the conditions specified by law, the alien spouse of any U.S. citizen may be approved for entry into the United States on a permanent-residence basis, without regard to numerical limitations, provided that the required petition for immediate relative

status (**Form I-130: Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa**) is duly filed with the United States Consul concerned, and duly approved.

7.1. Neither the Commissioner of Immigration and Naturalization nor the United States Consul has broad power to grant exceptions to the statutory restrictions governing the admissibility of aliens or eligibility to receive visas. However, the Immigration and Nationality Act, as amended (PL 87-301 (8 U.S.C. 1182)), vests in the Attorney General of the United States discretionary authority to grant waivers to certain alien spouses and children (including minor unmarried adopted children) who are ineligible for visas because of conviction of an offense involving moral turpitude, conviction of two or more offenses for which the aggregate sentence actually imposed was 5 or more years, or because of prostitution. The Attorney General of the United States may also grant waivers under his discretionary authority in the case of certain alien spouses and children who have procured, or attempted to procure, a visa by fraud or misrepresentation, or admitting the commission of perjury in connection therewith:

7.2. Each application for waiver (**Form I-601: Application for Waiver of Grounds of Excludability**) is judged on its individual merits. Waivers will not be granted where entrance of such alien dependents would be contrary to the nation's welfare, safety, or security. A favorable decision is required to be based on a finding by the Attorney General of the United States that extreme hardship would result to a U.S. citizen or a lawful resident of the United States should his or her alien dependents be excluded from the United States. An advance decision on a waiver is not possible for prospective spouses. Applications for waiver can be made only after a legal marriage.

7.3. **Form I-601** can be obtained from United States Consuls.

7.4. The Immigration and Naturalization Act provides that certain alien spouses and unmarried children (including minor unmarried lawfully adopted children) who are excludable from the United States because of mental retardation, a history of mental illness, or affliction with tuberculosis and who are otherwise admissible to the United States may be issued a visa and admitted to the United States for permanent residence. Approval thereof will be at the discretion of the Attorney General of the United States after consultation with the Surgeon General of the United States Public Health Service. (See AFI 44-109, *Mental Health and Military Law*/PHS GEN CIR NO.6/ NOAA CO-4.) Aliens in this category, who are dependents of the United States military personnel and who seek admission to the United States, must file an Immigration and Naturalization, **Form I-601**, with supporting documents, at the consular office considering the request for a visa.

7.5. A child is a citizen of the United States if he or she is born outside the geographical limits of the United States or its outlying possessions of parents, one of whom is an alien, and the other a citizen of the United States, who, prior to the birth of the child, was physically present in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least 2 of which were after attaining the age of 14 years. (Honorable service in the Armed Forces of the United States counts as physical presence in the United States.) Recognition of the child's citizenship when traveling to the United States is made easier if the birth has been declared by the parents and documented at the office of the appropriate United States Consul.

7.6. Children in the following categories are permitted entry into the United States, without numerical limitations, if otherwise qualified under immigration laws:

7.6.1. Children born to the alien spouse, whether or not born in wedlock, may enter as stepchildren of the citizen spouse, provided they had not reached the age of 18 years at the time of the alien's marriage to the U.S. citizen.

7.6.2. A child born out of wedlock, by, through whom, or whose behalf status, privilege, or benefit is sought because of the relationship of the child to its natural father if the father has or had a bona fide parent-child relationship with the person's natural mother.

7.6.3. Children adopted under the age of 16 years if they have since been in legal custody of, and have resided with the adopting parent or parents for at least 2 years.

7.6.4. Children under 16 years of age at the time at which the visa petition is filed, who are eligible orphans adopted abroad or coming to the United States for adoption.

7.7. Overseas commanders authorized to take final action on marriage applications will consider waiver possibilities in determining their action under paragraph 3.1.

**8. Admission of alien fianc  or fianc e.** Title 8, United States Code, Section 1101(a)(15)(K), provides nonimmigrant status to the alien fianc  or fianc e of a U.S. citizen who seeks to enter the United States solely to conclude a valid marriage with the U.S. citizen within 90 days after entry.

8.1. A service member desiring to have an alien fiance or fiancée admitted to the United States under the above provision is required to file a petition for a visa on behalf of the alien concerned. A visa will not be granted until the U.S. consular officer has received a petition filed in the United States and approved by the Attorney General. Satisfactory evidence must be submitted by the petitioner to establish that the parties have a bona fide intent to marry and are legally able and actually willing to conclude a marriage in the United States within 90 days after the alien's arrival. Minor children accompanying or following to join the alien should be included in the petition. The service member should communicate with the nearest district office of the Immigration and Naturalization Service, or with the nearest U.S. consular officer, if assigned overseas, to obtain information regarding the filing of the required Petition to Classify Status of Alien Fianc  or Fianc e for Issuance of Non-immigrant Visa (**Form I-129F**) on behalf of the alien concerned. The service member should be advised that in the event the marriage does not occur within 3 months after entry of the alien and any minor children, they will be required to depart the United States and upon failure to do so, will be deported.

8.2. The alien fianc e or fianc  desiring to immigrate to the United States should be advised to communicate with the United States consular officer of the American Embassy appropriate to the country concerned and request information on the procedure to be followed in applying for a visa under Title 8, United States Code, Section 1105(a)(15)(K).

8.3. As the marriage will not be performed in the overseas area, commanders need not be concerned with the issue of the alien's admissibility to the United States. Member will not be required to submit a formal application for authorization to marry.

8.4. Commanders are encouraged to grant leave, consistent with operation and military requirements, to personnel stationed overseas who plan to return to the United States on leave for the purpose of marrying an alien fianc  or fianc e. Therefore, in such cases, commanders need only be concerned with the following previous marriage (if applicable) is available (see paragraph 5.1.).

**9. Completion of Processing of Applications of Personnel Who Depart Overseas Commands.** The date of marriage relative to prospective rotation date of the U.S. citizen or the plans of the alien spouse for

departure to the United States is an important factor. An application for authorization to marry is not grounds for retention in the overseas command beyond the applicant's date eligible to return from overseas (DEROS), nor is it grounds for retention in the Air Force beyond expiration of term of service (ETS). It does not, however, preclude the individual's voluntary extension of overseas tour or term of service under other policies governing such extensions.

9.1. Processing will continue on those applicants not completed by the time the applicant departs the overseas command, provided the applicant so requests in writing and states his or her intention to return to the overseas command in a leave status for the purpose of marriage if the application is approved.

9.2. Requests for permission to visit an overseas command, or a foreign country not within the jurisdiction of an overseas command in an ordinary leave status for the purpose of marriage normally will not be granted until a member's application for authorization to marry has been approved. Unforeseen complications are often encountered when the premarital member is required to depart the overseas command before the investigation is completed. Additionally, an unnecessary burden is placed on administrative and investigative personnel in the overseas command attempting to complete the investigation prior to expiration of the member's leave.

9.3. Normally, leave is not granted to visit a country in which U.S. service members are entitled to receive hostile fire pay. Exceptions to this policy can be approved only by the major overseas commander with jurisdiction over U.S. personnel serving in the country to be visited.

9.4. Travel in connection with leave to and from the United States or to and from the overseas command where the marriage is to take place is the responsibility of the individual service member and will be at no expense to the government. However, active duty military personnel on ordinary leave are eligible for space-available transportation on DoD owned or controlled aircraft in accordance with DoD Instruction 4515.13-R. To obtain transportation, the member is required to have a valid leave authorization as prescribed by instructions of military service concerned.

**10. Applications Originating in Other Overseas Commands or in the United States.** Applications of military personnel who are stationed in the Continental United States, its territories, or in an overseas command other than the one in which the proposed marriage is to take place, will be submitted through such channels as the service commander will prescribe to the overseas commander concerned for processing.

10.1. When a decision is reached, the overseas commander concerned will inform the commander from whom the application was received of the decision. If the application is approved, the notification should include instructions as to any special requirements the applicant must meet upon approval in the overseas command for marriage. If application is disapproved, the reasons for disapproval will be given and, when practicable, suggestions as to additional action that may be taken to secure approval of the marriage will be made.

10.2. See paragraph 9.2 through 9.4 concerning permission to visit an overseas command in an ordinary leave status for the purpose of marriage, and transportation in connection therewith.

**11. Marriage Between U.S. Citizens and Certain Aliens.** The issue of admissibility to the United States is not involved in marriages between U.S. citizens overseas or between U.S. citizens and aliens



who have been admitted to the United States for permanent residence or have been granted immigrant status.

11.1. Commanders need only be concerned that authorization to marry has been obtained from parents or guardian in accordance with paragraph 4.2.

11.2. Commanders need only be concerned that evidence of termination of each previous marriage (if applicable) is available (see paragraph 5.1.).

11.3. That both parties are found on physical examination to be free from infectious venereal disease and active tuberculosis.

11.4. That the service member and the intended spouse are adequately counseled on the problems and responsibilities of marriage.

**12. Marriage Between Aliens .** An alien member who intends to marry another alien will be advised that such marriage will not exempt the alien spouse from the numerical limitations for immigrants (8 U.S.C. 1151). Nevertheless, a lawful permanent resident may petition for second preference classification for his or her alien spouse (8 U.S.C. 1153).

**13. Entry of Adopted Children .** Personnel contemplating adoption of an alien child other than the alien child of a spouse, should note, in general, adopted alien children are subject to the usual numerical limitations, except as provided for in paragraphs 7.6.3. and 7.6.4. Physical examination will be administered by a U.S. military or civilian doctor to determine as far as possible that the children are physically qualified for visas and entry into the United States.

**14. Optional Administrative Procedures for Command Instructions .** The administrative procedures outlined in the following paragraphs are *optional* and are intended only as a guide in the preparation of supplementation. The Commander may prescribe those procedures considered necessary for the preparation and processing of applications for authorization to marry. Adoption or modification of the procedures, as outlined, is at discretion of the Commander.

14.1. *Marriage counseling.* Service members should be advised of the desirability of pastoral counseling by a military chaplain with reference to spiritual and religious matters, adjustments which may be required as a result of language and environmental background differences and the moral and financial obligations of marriage and family life. Where practical, referral should be to a chaplain of the service member's faith. Counseling by a legal assistance officer should include a briefing on the requirements of the immigration and naturalization laws of the United States, and the legal responsibilities of supporting dependents. Where either party was previously married and divorce or annulment is involved, the legal assistance officer may advise whether, in his or her opinion, that the party is legally free to marry.

14.2. *Financial preparation.* Where circumstances indicate the need for financial preparation on the part of the service member, he or she may be urged to set aside a definite portion of pay as a savings and cautioned that failure to do so may prejudice approval of the request for authorization to marry or the granting of a visa to the alien spouse, if authorization to marry is granted. (This is particularly pertinent to personnel of pay grades E-1 through E-4 with 2 years or less service for pay purposes.)

14.3. *Application for authorization to marry.* Documents listed in the following paragraphs may be required to support an application for authorization to marry.

14.3.1. A statement by each party of legal freedom to marry. (Evidence of termination of each previous marriage, if any, of the applicant and or the intended alien spouse, such as a certified true copy of final divorce decree, marriage annulment document, or death certificate of a former spouse).

14.3.2. A financial statement from those personnel in pay grades E-1 through E-4 with 2 years, or less, service indicating that they have sufficient funds to defray expenses for the marriage, to include transportation of spouse and dependents, if any, to the United States (at personal expense, non-reimbursable) and appropriate visas. Assets of the intended spouse may be included.

14.3.3. Certificate of completion of marriage counseling.

14.3.4. A report of medical examination for the U.S. citizen signed by a U.S. Forces medical officer indicating freedom from active tuberculosis and infectious venereal disease. For aliens, a medical report signed by a U.S. Public Health Service or U.S. Forces medical officer, indicating probable qualification under the immigration laws for entry into the United States, is required.

14.3.5. Character references for the intended alien spouse.

14.3.6. Other documents or forms as required by the laws of the country or locality of the intended alien spouse and or by the jurisdiction in which the ceremony is to be performed.

14.4. *Submission of petition to classify status of alien relative for issuance of immigration visa.* The service member should be made aware of the importance of filing a petition as soon as possible because obstacles such as missing documents or the need for additional information could cause delays in the issuance of the visas and may result in the departure of the service member from the overseas command without his or her alien dependents. Submission of a petition may be required immediately following the marriage ceremony, when appropriate. A suspense file may be maintained until the visa is granted.

14.5. *Guidance classes.* Alien spouses of U.S. military personnel often encounter overwhelming adjustment problems upon arrival in the United States due to cultural change and a language barrier. The service member must often be away from duty to deal with these problems. Many adjustment difficulties could be avoided or significantly reduced by the spouses' participation in educational and Western cultural activities aimed at developing spouses' functional ability to live in the United States before arrival in the country. Service members should be encouraged to have their spouses, fiancées, or fiancès enroll in English language classes and other appropriate classes while still in the overseas command.

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